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USAID/MYANMAR (BURMA) PROMOTING RULE OF LAW PROJECT

QUARTERLY REPORT NO. 2: JANUARY TO MARCH 2014

USAID Promoting Rule of Law Project (PRLP)
Quarterly Report Jan. to March 2014

USAID/MYANMAR (BURMA)

PROMOTING RULE OF LAW PROJECT

QUARTERLY REPORT: January to March 2014

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LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
COP	Chief of Party
COR	Contracting Officer's Representative
CSO	Civil Society Organization
DCOP	Deputy Chief of Party
INGO	International Non-Governmental Organization
JICA	Japanese International Cooperation Agency
LNGO	Local Non-Governmental Organization
PRLP	USAID Promoting the Rule of Law Project
ROL	Rule of law
SGBV	Sexual and Gender-Based Violence
UAGO	Union Attorney General's Office
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USG	United States Government

I. BACKGROUND/PURPOSE

In light of recent efforts by the Government of Myanmar to transition to democratic governance, the United States has made a commitment to support Myanmar's political reforms, foster ethnic reconciliation, and strengthen the capacity of reform-minded individuals and institutions. As part of this effort, USAID aims to capitalize on unprecedented opportunities to strengthen the rule of law and tackle justice sector reforms. Core needs in the justice sector include low capacity of justice sector for legal education, effective enforcement, and public access. Systemic and prolonged problems had undermined the justice system's capacity in those areas and include political control of the judiciary, corruption, dearth of resources and limited access to sources of knowledge, oppression of an independent legal profession, and disregard for the protection of citizen rights as the basic tenet of the rule of law.

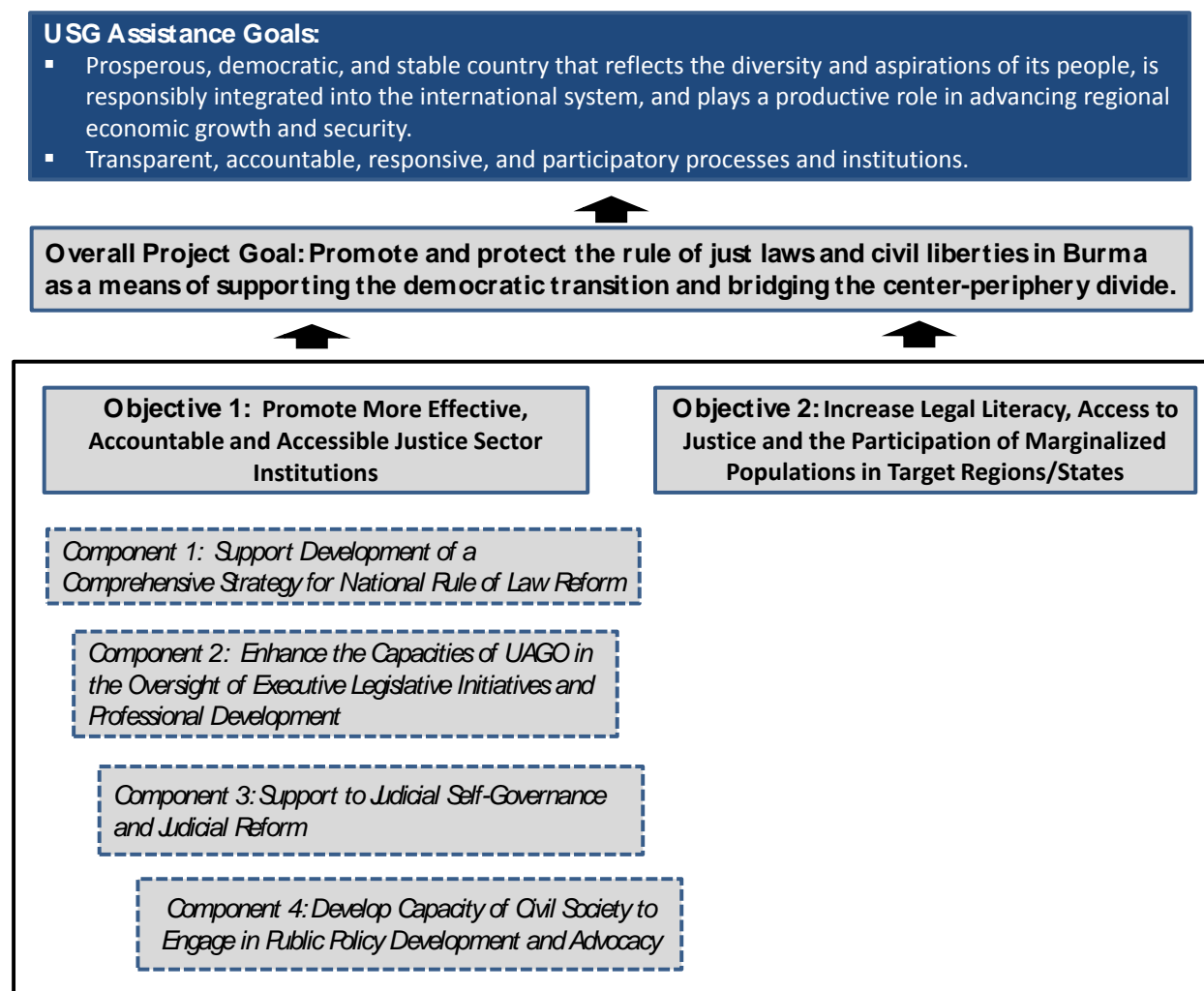
A combination of these and other system failures during decades of autocratic rule have severely eroded public confidence in the justice system. Success in establishing the rule of law, and the accountability systems that the rule of law depends on improvement in the norms, procedures and institutions of justice, as well as open dialogue between citizens and government.

The **purpose of the Promoting Rule of Law Project (PRLP)** is to implement a set of interventions to promote and protect the rule of just law and civil liberties in Burma. The project is designed to address key capacity and structural gaps that limit the effectiveness of selected justice system actors and inhibit inclusive participation in rule of law reform initiatives.

PRLP RESULT AREAS

PRLP employs a results-driven approach to its planning and programming. Project activities align and advance the objectives and results outlined in the USAID results framework and the contract, as follows:

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The specific expected results of the PRLP are further elaborated in the following chart.

PRLP Target Results	
Objective/Component	Results
Objective 1: Promote More Effective, Accountable and Accessible Justice Sector Institutions	
1.1 Support the Development of a Comprehensive Strategy for National Rule of Law Reform	<ul style="list-style-type: none"> ▪ Result 1.1.1: Increased understanding by justice sector institutions and CSOs of comparative legal frameworks and best practices ▪ Result 1.1.2: Construction of a comprehensive and coordinated strategy for rule of law reform and improved legal framework is supported ▪ Result 1.1.3: In-depth analysis of justice sector issues and needs is supported and the results made broadly available to stakeholders ▪ Result 1.1.4: Capacity of key government justice sector institutions to effectively participate in the development of a comprehensive

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PRLP Target Results	
Objective/Component	Results
	<p><i>rule of law strategy is enhanced</i></p> <ul style="list-style-type: none"> ▪ <i>Result 1.1.5: Roles, mission and function of justice sector institutions, and how they should operate together, defined</i> ▪ <i>Result 1.1.6: Public participation, primarily through CSOs, in the development of a national rule of law strategy is promoted and supported</i> ▪ <i>Result 1.1.7: Capacity of CSOs to effectively participate in the process is enhanced</i> ▪ <i>Result 1.1.8: Development of a comprehensive sector wide rule of law strategy is promoted and supported</i>
1.2 Enhance the Capacities of UAGO in the Oversight of Executive Legislative Initiatives and Professional Development	<ul style="list-style-type: none"> ▪ <i>Result 1.2.1: Capacity of the UAGO to provide legislative drafting oversight to executive branch ministries is strengthened</i> ▪ <i>Result 1.2.2: Capacity of ministries to draft legislation using best practices is improved</i> ▪ <i>Result 1.2.3: Gaps in gender-related laws and policies are identified and addressed</i> ▪ <i>Result 1.2.4: Efforts to make information about legal procedures available to the public is promoted and supported</i> ▪ <i>Result 1.2.5: Professional development in the UAGO and among public defenders or legal aid providers supported</i>
1.3 Support to Judicial Self-Governance and Judicial Reform	<ul style="list-style-type: none"> ▪ <i>Result 1.3.1: Capacity of the judiciary to adjudicate cases in a manner that is timely, effective, impartial, and free from outside influence is enhanced</i> ▪ <i>Result 1.3.2: Administration of justice improved through increased ability to monitor and analyze caseload, and implement performance standards</i> ▪ <i>Result 1.3.3: Reforms to the process of selecting and appointing judges supported</i> ▪ <i>Result 1.3.4: Integrity enhancing measures promoted and supported</i> ▪ <i>Result 1.3.5: Efforts to make information about judicial procedures available to the public promoted and supported</i> ▪ <i>Result 1.3.6: Professional development of the judiciary is supported</i>
1.4 Develop the Capacity of Civil Society to Engage in Public Policy Development and Advocacy	<ul style="list-style-type: none"> ▪ <i>Result 1.4.1: Capacity of CSOs to participate in policy dialogues related to rule of law reform, human rights, access to justice, and other related issues is strengthened</i> ▪ <i>Result 1.4.2: Capacity of CSOs to manage and implement ROL projects, including the provision of services to SGBV victims and advocacy for women's rights is enhanced</i> ▪ <i>Result 1.4.3: Selected advocacy initiatives of CSOs in the ROL sector</i>

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PRLP Target Results	
Objective/Component	Results
	<p><i>are supported</i></p> <ul style="list-style-type: none"> ▪ <i>Result 1.4.4: Coalition-building for CSOs with shared interests in ROL issues is supported</i> ▪ <i>Result 1.4.5: Public participation in policy debates, including in the planning of ROL reform and the drafting of legislation, is increased</i> ▪ <i>Result 1.4.6: Accurate and up-to-date information is provided by media</i> ▪ <i>Result 1.4.7: Public opinion is accurately measured, tracked and disseminated widely</i> ▪ <i>Result 1.4.8: Independence and professionalism of the Bar Association are promoted</i>
Objective 2: Increase Legal Literacy, Access to Justice and the Participation of Marginalized Populations in Target Regions/States	<ul style="list-style-type: none"> ▪ <i>Result 2.1: CSO community level services to increase access to justice, legal literacy, human rights protection, and civic participation in related policy dialogues are supported</i> ▪ <i>Result 2.2: Capacity of CSOs to manage and implement ROL projects is strengthened</i> ▪ <i>Result 2.3: Networking among CSOs and between CSOs and different levels of local government (e.g. region/state, district and township) is supported</i> ▪ <i>Result 2.4: Capacity of CSOs to actively and effectively participate in rule of law related policy dialogues is strengthened</i> ▪ <i>Result 2.5: Public participation, especially by marginalized and vulnerable groups, in local policymaking is increased</i> ▪ <i>Result 2.6: Capacity of the local media to provide accurate and up-to-date information and perform a watchdog role is enhanced</i> ▪ <i>Result 2.7: Dialogue and trust building activities between local communities and police and other security actors are supported</i> ▪ <i>Result 2.8: Services of local courts, legal aid providers, and other justice system actors in the region/state are improved</i> ▪ <i>Result 2.9: If present, independence and professionalism of bar associations are assisted</i>

II. PROGRAM PLANNING AND RESPONSE TO AD HOC REQUESTS

2.1 First Annual Work Plan

PRLP's first annual work plan covers the period of October 1, 2013, to September 30, 2014. The proposed work plan was submitted for review, suggestions and approval on January 15, 2014.

2.2 Performance Monitoring Plan

PRLP developed and submitted a draft Performance Monitoring Plan (PMP) to USAID on February 17, 2014, which is pending approval.

2.3 Selection of Target Regions/States

The PRLP scope of work calls for intensive focus of activities in two to four target states/regions. In early consultations USAID recommended PRLP start with two target states/regions. Following extensive research, analysis, and discussions, on February 28th, 2014, USAID provided its final approval for PRLP's initial target states/regions: (1) Shan State, (2) Northern Bago, Northern Kayin, and Kayah.

These locations were selected based on criteria including:

- Mix of ethnic and non-ethnic regions
- Size of population (potential for impact on a large percentage of citizens)
- Extent of access to justice needs (e.g., land grabbing, communal violence, women's rights violations)
- Accessibility including during the monsoon season
- Size of caseloads in the judicial system
- Amount of current or planned donor activity in the rule of law space (to avoid unnecessary overlap)
- Geographic priorities of USCO and UAGO leadership
- Capacity, quality, and openness of leadership in justice institutions and executive government entities
- Prevalence of gender related violence and other rights violations
- Existence and capacity levels of bar associations and law universities
- Opportunities for synergy with other USAID programs.

Specific considerations in selecting the target regions/states included:

- Large, underserved ethnic populations in Shan, Northern Kayin, and Kayah
- Potential synergies with USAID programs including PACT's community governance programs throughout Kayah
- Inclusion of non-ethnic location in Northern Bago, with an open environment for CSO and international organization programs and a comparatively strong and progressive bar association
- Limited rule of law related donor activity
- Synergies regarding staff travel among the selected regions/states

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Some reasons other states/regions were not selected at this time include:

- Challenging travel and limited judicial caseloads (Chin State)
- Rigid leadership (Magway/Sagaing)
- Lack of ethnic populations (Yangon, Ayerwaddy),
- Small populations limiting potential impact (Mon, Chin)
- High donor involvement (Mon, Ayerwaddy, Mandalay)
- Conflict issues making program operations risky/difficult (Kachin, Rakhine)

2.4 Response to Ad Hoc Requests from USAID

PRLP responded to requests from USAID relating to finalization of its internal rule of law assessment report, identification of CSO leaders for meetings with US congressional staff and the USAID Administrator, and content for USAID/Myanmar applications related to USG global initiatives on public defense peace, and violence against women.

2.5 Registration

The firm Interactive worked with Tetra Tech corporate representatives throughout the quarter to prepare the papers needed for filing with the application for registration. It is projected that upon such filing a Temporary Registration will be issued allowing PRLP to enter into formal hiring processes.

III. PROGRAM ACTIVITIES BY OBJECTIVE/COMPONENT

PRLP spent the early part of the quarter communicating with key counterparts in Naypyitaw, the USCO and UAGO, to raise their awareness of the PRLP and define initial project assistance packages. This effort faced the challenge of mission overlap with UNDP, which has widely scoped work plans with USCO and UAGO and staff embedded in Naypyitaw. It also faced challenges of limited time availability of PRLP's designated liaisons at USCO and UAGO and formal protocols making it difficult to obtain access to technical staff within USCO and UAGO, lack of self-awareness of assistance needs in USCO and UAGO pertaining to PRLP's scope of work, and difficulty obtaining permission to view previous needs assessment and planning processes at USCO and UAGO supported by UNDP. Some staff, in UAGO in particular, expressed reluctance to perform further needs analysis and planning since this effort was already undertaken or in progress with UNDP's support (even though the results of such efforts have not been made available to other donors).

Nonetheless, PRLP made good progress in defining some initial areas of assistance with USCO and UAGO that do not directly overlap with UNDP, JICA, or other donors. These initial activities should serve to strategically develop relationships and trust within each institution and improve conditions for engaging on more meaningful institutional change initiatives, such as ethics, transparency, and efficiency programs. As of the end of the quarter, PRLP was implementing its first hands-on activities with the USCO: court budgeting advisory support and a judicial operations and efficiency assessment.

Objective 1: Promote More Effective, Accountable and Accessible Justice Sector Institutions

1.1 Support the Development of a Comprehensive Strategy for National Rule of Law Reform

As the PRLP scope of work emphasizes, a single national justice sector strategy is pivotal to build stakeholder consensus around a coherent reform vision, promote prioritization, guide each institution's own strategic planning efforts, and facilitate division of roles among the many international organizations seeking to engage in the rule of law space. Such a strategy is particularly important for those areas that fall outside the clear responsibility of justice institutions such as USCO and UAGO. For example public defense and legal aid system development, legal framework reform, public legal awareness programs, web-based access to legal information, and law university modernization all need urgent emphasis but they tend to fall outside the purview of a single existing institution under the current legal framework.

Following up on PRLP's December discussions on the topic with Robert Pe, Advisor to the Parliamentary Rule of Law Committee, during the quarter, PRLP began to gauge interest of USCO and UAGO to initiate work on a national justice sector reform strategy. It investigated the composition and status of the Legal Advisory Board formed by the President to lead justice sector reform activities. PRLP raised the topic of a national justice sector strategy with UNDP, the other principal rule of law donor, following up on a comprehensive list of justice sector assessment needs that PRLP prepared and sent to UNDP for comment in December 2013. USAID separately has held consultations with the Parliamentary Rule of Law Committee and donors such as UNDP about moving forward on a national rule of law strategy.

PRLP also began the process of engaging the business community to assess their interest and role in promoting national justice sector reform. In various one-on-one discussions with businesses including telecom companies, it is clear that companies are finding ways to do business and resolve any business disputes without the need to resort to the judiciary. The cultural desire of citizens to maintain reputation promotes amicable resolution of disputes. In some cases businesses have had to forego claims where disputes cannot be resolved amicably. This state of affairs, where businesses are getting by without a judiciary, may temper the role of the business community in championing legal and judicial system modernization.

In mid-March, PRLP met with the Myanmar chamber of commerce, the Union Federation of Myanmar Chambers of Commerce and Industry (UFMCCI), a powerful institution based in Yangon, with over 70 full-time staff. The Vice President of UFMCCI commented that businesses are facing many challenges with the legal framework and the judicial system. He offered to organize a workshop in early April with the legal representatives of the UFMCCI's many member trade and industry associations, using UFMCCI's conference facilities. The purpose of the event will be to listen to the experience and specific concerns and priorities of businesses in relation to legal and judicial reform and gauge the potential role of the business community as partners to the government in justice sector reform in Myanmar. One possibility, if conditions are supportive, is involving businesses in an independent body of influential stakeholders (business, academics, CSO leaders, etc.) that issue concrete recommendations to the government for national justice sector reform, as contemplated in the PRLP scope of work.

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In mid-March PRLP launched, with USCO participation, a key judicial operations and court budgeting assessment activity that will inform substance and prioritization of a national justice sector reform strategy (see Component 3, below). PRLP staff also developed a first draft of a detailed *Justice Sector Comparative Law and Best Practices Compendium* that will be used to build awareness of international standards and models, and facilitate stakeholder discussion about practices that can and should be adapted to Myanmar's context.

Finally, PRLP incorporated national justice sector strategy related-research into its draft Request for Applications (RFA) for National Justice Sector Advocacy and Research Programs (see Component 4 below). Through grants, PRLP will engage CSOs in the analysis and dialogue necessary to develop a national justice sector strategy that is informed by empirical information about the current situation and actual priority needs and that enjoys wide stakeholder support.

PRLP has preliminarily found general support in the UAGO and USCO for a national justice sector strategy, yet the process appears to be stalled due to institutional differences about the roles and characterization of the UAGO and USCO in the judicial system. In close consultation with USAID, PRLP will continue to explore viable pathways for moving forward the process of national justice sector strategy development.

1.2 Enhance the Capacities of UAGO in the Oversight of Executive Legislative Initiatives and Professional Development

PRLP worked in furtherance of the expected results under Objective 1, Component 2, namely: Capacity of the UAGO to provide legislative drafting oversight to executive branch ministries is strengthened; Capacity of ministries to draft legislation using best practices is improved; Gaps in gender-related laws and policies are identified and addressed; efforts to make information about legal procedures available to the public is promoted and supported; and Professional development in the UAGO and among public defenders or legal aid providers supported.

Finalizing Initial Assistance Package with the UAGO. On January 29th, the PRLP COP and DCOP met in Naypyitaw with the UAGO Director General, U Kyaw San, the liaison to PRLP assigned by the Attorney General. In this initial meeting, PRLP explained the differences between the PRLP and the USAID-funded ACTI project and began to explore the potential needs that PRLP can fulfill that are not already being covered by other donor organizations, such as UNDP and JICA. The Director General suggested a few areas including strengthening the process for translation of laws into English, development of a public procurement law, and support for the department that reviews government contracts. In early January, PRLP sent a follow up letter to the Director General to summarize potential areas for initial project assistance and request feedback.

The DCOP traveled to Naypyitaw on March 11th to follow up on the letter. Some further areas of potential assistance were identified by the Director General including support to the strengthening of the training unit by establishing a cadre of permanent trainers, enhancing

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impartiality of law officers, and development of a legal aid law. The Director General and DCOP agreed that a half-day planning workshop with UAGO planning staff would be a good approach to more precisely define UAGO capacity enhancement needs not being addressed by other donor organizations.

On March 18th, the DCOP and Tetra Tech DPK consultant Nabil Isifan, along with PRLP staff, organized a half-day work planning session with 11 members of the UAGO planning team in Naypyitaw to identify areas for PRLP support. The session helped shed light on the status of internal assessment and planning to date, with UNDP support, including status of internal planning documents that have not yet been shared outside UAGO and UNDP. The meeting included discussion of the importance of UAGO taking ownership of its own planning, disseminating more information to donors to support their efforts to engage, and developing a unified capacity enhancement plan (e.g., a 12 month plan) that can be shared with donors. PRLP offered to support individual UAGO departments to develop departmental plans that could then be combined into a single plan for the UAGO.

The final outcome of the March 18th meeting was a list of specific assistance areas that are not already being met by other donors. These included: legal English training; IT skills training; developing a legislative drafting manual building on existing drafting guidelines; developing a legal information system; developing a document management system; strengthening the prosecution department's case management of prosecutors; and digitization of 10,000 hard copy books.



Consultant Nabil Isifan presents to the UAGO Planning Team, Naypyitaw, March 18th

PRLP sent the UAGO planning team leader the meeting minutes on March 19th with the list of activity areas (see Attachment 1), and it was agreed by participants that the list would be presented to and discussed with UAGO leadership. The UAGO would then issue a formal request to PRLP for assistance. PRLP, in turn, would consult USAID (and other donors as appropriate) and inform UAGO as to the areas that PRLP is able to support.

Gender Analysis. From mid-February to mid-March, CSO / Gender Consultant Ashley Barr performed an analysis of gaps in the gender laws and policies, through review of literature and legislation and extensive meetings and multiple focus groups with women's CSOs, including a Gender Justice Workshop at PRLP's offices on March 10th for 17 CSO representatives.

As its initial activity to address gender gaps in the law, PRLP responded to a request from the Myanmar Council of Churches (MCC) to provide expert support to the church in drafting of amendments to the Christian Marriage Act, which the church was undertaking at the

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government's request. In the second half of March, PRLP organized two workshops to discuss the draft amendments, involving several legal experts including:

- Daw Amy San Dun, Advocate
- Daw Hla Myo Su, Advocate
- Daw Nwe Nwe Lwin, Advocate
- Daw Tin Tin Yee, Advocate
- Daw Sar Mu Khar, Lawyer
- Daw Naw Aye Kyin, Advocate
- Daw Nan Aung, Advocate
- Daw Zo Hning Thai, Executive Secretary, Women's Department-MCC
- Daw Naw Thwesah, Staff, Women's Department-MCC
- Daw Mal Sawmn Par, Intern, Women's Department-MCC

As a result several provisions in the draft amendments were revised to address gender inequalities, including setting the legal age of marriage at 18 for both males and females, instead of 18 for males and 16 for females and addition of a provision strengthening consent requirements of the bride in arranged marriages. The draft amendments were to be submitted to the government by the church during April.



Gender Justice Workshop at PRLP's offices, Yangon, March 10th

1.3 Support to Judicial Self-Governance and Judicial Reform

Agreement on Initial Assistance Package with the USCO. PRLP made notable progress during the quarter in defining an initial assistance package with the USCO, and then commencing its implementation. After initial meetings with the USCO Director General in late January, the PRLP COP attended a 2-day conference in Naypyitaw on February 11 and 12, organized by the UNDP and the International Commission of Jurists. The conference was attended by many of the senior officials from the USCO. The COP actively participated, sharing his experience with judicial ethics, court budgeting, and court-media relations.

Noting the problems discussed in the conference that apparently were not being addressed by UNDP or others, and initial consultations with the USCO Director General, PRLP requested a meeting with USCO departmental leaders, including the Deputy Director General, the Director of Research, and Assistant Director of Research, held in Naypyitaw February 20th to discuss the USCO's needs in more depth. The 90 minute meeting included discussions on court budgeting, the status of USCO strategic planning, current projects underway (mentioned were review of 52 laws including the Evidence Law, IT improvements, judicial capacity building/training, and facilities improvements). Next steps were agreed, including PRLP commitment to submit a letter

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to the Director General to formalize assistance areas, citing the Bilateral Agreement with the US Government.

PRLP submitted a letter agreement to the Director General in mid-February outlining five potential areas of initial support. These included:

- Court budgeting
- Judicial operations and efficiency assessment
- Recordkeeping/archiving/filing systems
- Judicial-media relations
- Support to USCO in reviewing 52 laws

The USCO Director General counter-signed the letter agreement in late February (see Attachment 2).



Site visit to Yankin Township Court, Yangon, on February 5th

Court Site Visits. On February 5th, PRLP's COP, DCOP, and Capacity Building Specialist visited the Yangon District Court (West) and the Yankin Township Court. The purpose of the visits were to develop an initial understanding of the conditions of the courts, including facilities, case management and recordkeeping systems, and workloads, as well as system actors' opinions of challenges and priorities. The visits involved a two-way sharing of information. The COP shared information on the US justice system structure and practices and the Myanmar judges explained about the current situation in the Myanmar courts. Despite severe infrastructure limitations, including dilapidated building conditions in the Yangon District Court and use of old typewriters to type hearing minutes, the PRLP team noted many strengths of the court administration and case processing systems in Myanmar.

Some of the key observations from the court visits included:

- A new building reportedly is being constructed to replace the Yangon District Court (West) courthouse, reportedly one of two new building projects underway nationwide
- Yankin Township Court has a light workload (one of the three judges reported he has only 10 pending cases). The primary reason given was the low crime levels in the Township.
- Myanmar's judiciary uses an individual calendaring system, meaning that a single judge works on each case. Judges keep current case files in their offices. This model makes calendaring and case tracking much simpler. No problems with "losing" cases in the system were reported.

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- The courts reported they have no significant problems with postponements, attorney preparation, notifications, or execution, some of the common and most problematic challenges in many developing and transitioning countries.
- Some courts are in decent condition and others, such as in Hlaing Thayar, Yangon, are in major disrepair and lack space for the number of judges needed to manage growing workloads (see photo)



Court Budgeting and Judicial Operations Assessment. PRLP immediately commenced to organize travel of a top court budgeting and judicial operations assessment expert, Ronald Stout, in time to complete a 4 week assessment before the April 12 national holidays commenced. The DCOP met with the USCO in Naypyitaw on March 12th to finalize the schedule for the consulting assignment. The consultancy began March 17th and included one week in Naypyitaw from March 19th to 26th working closely with the USCO Deputy Director General in charge of court budgeting issues.

Structural damage in Hlaing Thayar Township Court, Yangon

Mr. Stout was able to support the USCO in fulfilling challenging new budgeting requirements, in which all of the 14 high court budgets are submitted to the USCO for transmittal to the Ministry of Finance. The change was implemented at the direction of the President of the Supreme Court, with the goal of strengthening judicial independence. Mr. Stout was able to assist the short-staffed USCO officials to meet the requirements under an extremely tight deadline and the USCO expressed gratitude for the assistance.

In follow-up, PRLP was working as of the end of the quarter to provide some expert support to the USCO Director of Training, who, based on Mr. Stout's advice, designed a Microsoft Access database program to compile budgeting data received from the 14 high courts. PRLP offered to provide an expert to enhance the functionality of the program, and enable the USCO to automatically generate the unified budget report due in the coming weeks.

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On March 28th Mr. Stout and Court System Specialist Yein Myaw began judicial operations assessment visits to several courts including Hlaing Thayar Township Court, a court with relatively high caseload and seven judges on the outskirts of Yangon, followed by Pyay District Court, and Bago High Court. The initial findings and recommendations from Mr. Stout's assessment were to be presented to the USCO in Naypyitaw on April 9th with a final report completed later in April.



Consultant Ron Stout working with senior USCO officials on a financial database solution

Other Activities. One of the objectives of PRLP is to improve access to information resources in the USCO. Based on observed areas of current interest at the USCO, PRLP compiled and provided the USCO resources on court budgeting, justice sector strategic planning, and court facilities standards, including an English version of the Tetra Tech DPK-developed *Court Facilities Improvement Guidelines*. PRLP began translating the *Facilities Guidelines* for submission to the USCO in April.

In late March, PRLP began the process of identifying an expert for a consultancy on judiciary-media relations, to address a priority need identified by USCO officials in the February conference. In this regard, PRLP began a research project about media coverage of the judiciary to analyze how journalists report on the courts, and which are the main media outlets covering the judiciary.

In the court visits by Mr. Stout from March 28th to April 4th, PRLP took the opportunity to survey township, district, and high court judges about their current priority needs. Requests received from the judges include upgrading and digitizing court libraries and court facilities refurbishment.

1.4 Develop the Capacity of Civil Society to Engage in Public Policy Development and Advocacy

Drafting of Request for Applications. During the quarter, PRLP submitted to USAID a draft Request for Applications (RFA) for National Policy Advocacy and Research Grants as well as an RFA for the Establishment of a Center for Justice Innovation, a think-tank to be focused on justice sector policy and management research and advocacy. PRLP confirmed interest in providing advisory support to such a Center from the leadership of the highly respected Center for Court Innovation, a US-based justice sector research and consulting organization.

Both of the RFAs were pending USAID's approval at the end of the quarter. In the interim, PRLP staff surveyed other organizations regarding lessons from their experience with grants programs in the unique Myanmar environment. Organizations highlighted the low

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percentage of CSOs that are registered and able to open bank accounts. These experiences were integrated into a revised Grants Manual submitted to USAID in mid-February.

Team Training on Grants Management and USAID Regulations. In late February and early March, PRLP's Acting COP, CSO/Gender Specialist, and consultant Nabil Isifan carried out training for PRLP staff on USAID grants management. The project developed Terms of Reference for a home office Grants Specialist to travel to Myanmar around the time of evaluation of grants applications and award, to provide further support to PRLP staff with design of grants agreements and effective grants management strategies and practice.



Reviewing court registries in Hlaing Thayar Township Court, Yangon

Grants Launch Preparations. The PRLP staff finalized locations for advertising RFAs, once approved, and commenced development of presentation materials for Grants Orientation Workshops to be held after RFA issuance. The staff also focused on developing internal procedures and templates for evaluating and awarding grants applications, and managing the grants process. PRLP also developed TORs for a Tetra Tech DPK grants specialist to visit the project around the time of grant award to support grants evaluations and grants managements systems and procedures.

Further, PRLP held meetings with various CSOs, including Myanmar Legal Aid Network (MLAW) and Myanmar Egress to understand current practices and capacities in policy advocacy and research, to build awareness about the upcoming national level grants program, and to generate interest in the grants program.

Direct Support to National Policy Advocacy Initiatives. PRLP's approach will be to support opportune advocacy initiatives with good potential for success through grants and direct technical assistance.

- *Advocacy for an Independent Bar Association.* PRLP Result 1.4.8 states: "*Independence and professionalism of the Bar Association are promoted,*" a timely issue presently in Myanmar. Whereas various bar associations exist throughout Myanmar, licensing and supervision of attorneys is currently under the UAGO's authority which inhibits their capacity to serve as a "check" on the legal and judicial institutions, and effectively promote justice sector reform, professionalism of attorneys, and law school reform. PRLP and USAID COR Jennifer Link met with the leadership of the International Bar Association in early February in Yangon to discuss their plans to support independence of the bar in Myanmar.

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PRLP's DCOP participated in a February conference organized by the International Bar Association in Naypyitaw to promote independence of bar associations. At that conference, a decision was taken by lawyer participants to develop the framework for an independent bar association within one year, with MLAW serving as secretariat for the committee's efforts. PRLP met with Mae Tanner, an IBA representative in Yangon, in late March for a status update. PRLP will stay updated and remain alert to opportunities to support this effort, if needed.

- *Promoting a National Legal Aid Policy.* One such initiative is development of a national legal aid law or policy, which potentially will have a major positive impact on legal empowerment and access to justice for marginalized populations. MLAW is currently leading a coalition of CSOs developing a draft national legal aid policy for consideration by the UAGO. MLAW organized a large conference on February 3rd to launch the process of developing the draft policy, which is envisioned to take more than one year.

At MLAW's request, on short notice PRLP's DCOP prepared a presentation and presented on the topic of "*A National Legal Aid Policy: Features and Considerations*" (see slideshow, Attachment 3). The presentation built upon Tetra Tech DPK's *Sustainable Legal Aid Development Guide* and covered the following topics:

- Purpose of a Legal Aid Policy
- Considerations in Developing a Policy and a Sustainable Legal Aid System
- Elements of a Written Policy
- Avoiding Common Pitfalls
- Preparatory Steps

PRLP's presentation at the conference emphasized lessons learned from other countries' experience, including the importance of conducting in-depth economic and market analysis in developing a legal aid law or policy to ensure cost-efficiency and effectiveness of the legal aid system. Such in-depth data analysis will also provide a persuasive evidence base and credible cost estimations in advocating for the policy's adoption. The presentation also reviewed best practice examples of national legal aid policies from Australia and Bangladesh, and explained in detail the role and importance of a coordinating body for a legal aid system.

At MLAW's suggestion, PRLP distributed a sample outline of a national legal aid policy that participants used to begin development of a draft national policy. MLAW expressed its gratitude for PRLP's contribution to the conference and PRLP has received subsequent invitations from MLAW to present at their events.

PRLP subsequently raised the topic of legal aid law to the UAGO Director General in March. He reported the UAGO wants to move forward deliberately on the issue, and ensure legal aid providers are effectively regulated before state funding is provided.

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PRLP will continue to seek opportunities to promote legal aid law development both from the government and civil society sectors, and scan for openings to bring CSOs and government together to work on this important issue collaboratively.

Women's Rights Advocacy. PRLP's CSO / Gender Consultant Ashley Barr performed research into the current capacity of CSOs to manage and implement advocacy for women's rights. PRLP commenced direct support to selected advocacy initiatives of CSOs in the ROL sector. PRLP organized two workshops to facilitate public participation in the drafting of marriage related legislation.

Advocacy Coalition Development. PRLP also met with several businesses and the Union Federation of Myanmar Chambers of Commerce and Industry (UFMCCI) to gauge interest in participating in a coalition of CSOs to promote justice sector modernization. At the end of the quarter, PRLP was working with UFMCCI to plan a workshop with key UFMCCI members about the business community's views on justice sector reform and willingness to be a partner to the Government in justice system strengthening through sponsoring public awareness campaigns or related efforts.

Media Coverage of the Justice Sector. PRLP Result 1.4.6 contemplates "Accurate and up-to-date information provided by media." To this end, in early February, PRLP developed a Request for Proposals for training of journalists to more effectively and accurately report on the justice system, pending USAID approval as of the end of the quarter. PRLP team members commenced a research project to analyze current media coverage of the justice sector, including frequency and quality of reporting on the sector and any patterns such as common inaccuracies. The research findings will be incorporated into the media training and the project's planned activities with the USCO to improve court-journalist relations.



CSO workshop in Loikaw, Kayah State, March 28th

Justice Sector Opinion Survey. PRLP Result 1.4.7 provides, "Public opinion is accurately measured, tracked and disseminated widely." During the quarter, PRLP developed a questionnaire and Request for Proposals to carry out a justice sector public opinion survey in the PRLP's targeted regions and states. The questionnaire includes approximately 50 closed and open-ended questions and measures citizen and justice system user's awareness and perceptions of the law and justice sector as well as community conflict drivers.

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PRLP staff researched potential local subcontractors and estimates of cost of the activity. PRLP met with USAID partner the International Republic Institute (IRI) in early March to discuss their experience working with local polling organizations and potential cooperation with IRI in implementing the survey. After consultations with USAID it was determined to secure USCO consent to the survey before it is announced. To avoid confusion and disruption of the national census and due to the challenges of carrying out household surveys during the monsoon season, PRLP expects to complete the survey in Fall of 2014.

Objective 2: Increase Legal Literacy, Access to Justice and the Participation of Marginalized Populations in Target Regions/States

Target Region/State Selection. In the first 6 weeks of the quarter, PRLP carried out analysis of potential target regions/states through literature review, staff consultation, and meetings with USAID, the USCO, UAGO, donors, and CSOs. Building off a matrix presenting pros and cons of each region/state provided to USAID in mid-December, based on additional research and meetings, further alternatives were presented to USAID for review in mid-January. On February 28th, USAID approved PRLP's initial target regions/states of Northern Bago, Kayah, Northern Kayin, and Shan State. Chin State was excluded due to its small population, very small court caseloads, and travel difficulties. Magway Region was also eliminated due to the reported rigidity of government leaders in the region and lack of ethnic diversity.

The targeted locations provide a mix of Burman and ethnic populations and the proximity of the regions/states offers management and logistical synergies. They also offer limited donor coverage in the rule of law space, a strong bar association in Bago, numerous law universities, and relatively open regional and state government leaders. The regions may be expanded in the later years of the project, with USAID's approval.

CSO Workshop. On February 19th, PRLP organized a day long CSO workshop to generate interest in the upcoming PRLP grants program, explain the focus and requirements of the grants process, and brainstorm about problems, priorities, and current activities in some of the regions/states PRLP expected to target: Northern Bago, Northern Kayin, Kayah, and Shan as well as Magway and Chin (which were later eliminated as initial target regions/states).

The following ten organizations were in attendance, organized by regions where they have current program activities:

Location	Organizations
Chin	FSWG , Ar Yone Oo
Kayah	Sustainable Development Initiatives (SDI), NGG, Thingaha, FSWG, Ar Yone Oo
Magway	Loka Ahlinn, FSWG, Local Resource Center, Loka Ahlinn

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North East Bago	SDI, Myanmar Social Development Network (MSDN), Ar Yone Oo
North Kayin	MSDN
Shan	Loka Ahlinn, LRC, Thingaha, MSDN, Ar Yone Oo
Various	MLAW, Myanmar Egress

The discussions were productive and the following key problems and issues were identified for Northeast Bago, Kayah and North Kayin:

- Land Grabbing
- Corruption
- Domestic Violence/ Child Abuse/ Gender-based Violence
- Poor Knowledge of Rights (Civil Rights)
- Security Issue (many armed groups)
- Armed Related Abuse
- IDP issue

For Shan State, the following problems and issues were cited:

- Land Grabbing
- Corruption
- Lack of Legal Education
- Coverage of services only in the Township Level
- Domestic Violence/ Child Abuse/ Gender-based Violence
- Drug Crime
- Human Trafficking (China + Thailand)
- Security Issue (many armed groups) (black/brown area)
- Armed Related Abuse
- Political Dispute (Different Ethnic Groups)
- Environmental (Contract Farming, Mining, etc.)
- Customary Laws
- Identity Card Issue
- Unreported Cases
- Illegal (unsafe) products from China



CSO Workshop at PRLP Offices in Yangon, February 19th, 2014

An overarching problem identified by the participants is the lack of comprehensive and systematic research on the issues and needs in these locations. Many funders do not offer funds for research and assessment, only program implementation. Based on this recurring comment, PRLP will encourage its grantee partners to incorporate research and assessment activities into their funded programs, directly or

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through partnerships with research organizations, building capacity in evidence-based program development methods while addressing the data gaps in PRLP's target regions/states.

One goal of the workshop was to spur improved and innovative programs. Innovation breakout sessions, where participants analyzed key challenges and innovative solutions, resulted in an impressive range of ideas for enhancing programmatic impact, and improving cost-effectiveness, going forward. Some highlights are set forth in the below chart.

Challenges/Gaps	Solution	Innovative Ideas	Cost Effective Approaches
Group A			
- Research Skills	- Legal Research (TOT)	- Crime Research - Right Based Approach - Private – Public Partnership Approach - Contextualized Conflict Resolution	- Partnership (PPP) - Volunteer - Community Approach - Peer to Peer
- Lack of Cooperation of Gov. Officials	- Cooperation (Legal officials)		
- Linguistics Barrier	- Community Language center		
- IEC (Lack of access to information)	- Peer to Peer		
- Fair to start as a pioneer	- Trainer Network (Master Trainer/ Core Trainer)		
Group B			
- Role of Judiciary Sector is not clear - Budget/ Finance - Communication Barrier - Gaps in legal knowledge	- Direct Advocacy to related stakeholder - (Public and private sector) - Choosing the innovative means to empower legal capacity of all stakeholders	- Mobile Application (Human rights/ police manual) in several languages - Role Play in Community level/ Secondary School Level (Informal Education to Undergraduate students) - Study Tour to Local Court - Engage with Senior Law Student in Legal awareness Process - Community Auditing on legal system - Joint Dialogue Forum	- Reduce the transactional Cost - Cost, Time & Quality need to be balanced
Group C			
- Lack of resources and staff - Local authority collaboration varies from place to place	- Integrating New Concepts into Existing Program - Collaboration with local/ similar	- Information sharing channel to be created (eg, a website or facebook about the works done by the network of ROL organizations)	- Using Social Media as a tool for fundraising and volunteer network

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Challenges/Gaps	Solution	Innovative Ideas	Cost Effective Approaches
<ul style="list-style-type: none"> - Registration - Financial constraints - (Defended cost/ office mixture) - Poor Media capacity to advocate the specific ROL issue (to track the specific issues) - Need for Strategic Plan 	<ul style="list-style-type: none"> organizations to/before carrying out new programs in new (targeted) areas - Communication strategy should focus on representative for a very remote area (with support from faith-based organizations) 	<ul style="list-style-type: none"> - Collaborative reporting to public - Targeting to "Opinion Leaders" for Multiplier Effect (esp. in capacity building) 	

Region/State Mapping Missions. As soon as the target regions/states were finalized, PRLP's DCOP, Civil Society Specialist, Grants Manager, Capacity Building Specialist, and Program Specialist commenced research and mapping of the target regions/states, building on PRLP staff's own experiences and networks in those locations. An initial scoping trip to Shan and Kayah was planned throughout mid-March and took place from March 27 to April 1.

Three PRLP team members traveled to Loikaw, the capital of Kayah, and Taunggy in Shan State. Meetings were held with a number of CSOs, international NGOs including PACT and World Vision, as well as government officials and a law university professor. In each location, the trip provided:

- Foundational understanding of main rule of law, access to justice, and human rights problems and priority needs
- Status of formal and traditional justice mechanisms
- Current and planned programs in the rule of law and access to justice space
- Insight into the protocols and strategies for working in ceasefire areas occupied by armed groups
- Initial contacts and relationships with relevant government officials and CSOs
- Identification of several potential partners for PRLP in the legal aid, public legal awareness, child protection, and community participation sectors.

In late March, PRLP also made initial contact with the regional government in Bago to obtain necessary authorizations for meetings with local government officials in Taunggy, Northern Bago, to be conducted in early April.

Community Mediation Feasibility Analysis. In early March, PRLP developed a customized feasibility analysis questionnaire to be used to determine the need and viability of community mediation programs in the target regions/states. The purpose is to verify conditions are supportive and authentic demand for mediation programs exist prior to investing in their development, an approach that has proven effective in other

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environments. PRLP's DCOP and Civil Society Specialist, who possesses a strong background in conflict resolution, aim to carry out the analysis in selected communities in the target regions/states by the end of May.

IV. DONOR COORDINATION AND AD HOC MEETINGS

During the quarter, PRLP's COP and DCOP met with numerous organizations for donor coordination purposes and exploration of partnership opportunities. In addition to PRLP attendance at the monthly Rule of Law Coordination meetings at UNDP, illustrative meetings included:

January

Allan Slipper, Tetra Tech ARD Land Policy Expert
Sustainable Development Initiative (SDI)
Center for Court Innovation
Justice Base
Justice for All Law Firm
Japanese International Cooperation Agency (JICA)
UNDP

February

Advocats Sans Frontiers (ASF)
International Senior Lawyers Project
Steve Parker, USAID ACTI Project
MLAW
Loka Ahlinn
JICA
PACT
UNDP

March

Mercy Corps
PeaceBuilders Breakfast Group
EduLink
UNDP

V. ISSUES OR PROBLEMS AFFECTING THE DELIVERY OR TIMING OF SERVICES

PRLP's primary counterparts, the USCO and UAGO, are at times overwhelmed with the number of international organizations offering their support. PRLP's strategy at the outset has been to align initial activities to needs identified by the counterparts themselves, to ensure assistance is demand-driven while the project builds relationships and trust with each counterpart. The institutions have had some difficulty identifying needs that are not already being addressed by UNDP, JICA, or other donors. Better progress was made with the USCO during the quarter, as a letter agreement covering five initial activity areas was executed.

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Progress has been more deliberate with the UAGO, although advancements occurred near the end of the quarter. At a half day workshop on March 18th facilitated by PRLP, UAGO's planning team identified a list of 13 potential areas of support that are not being addressed by other donors. PRLP planned to follow up with the UAGO Director General in early April to finalize some initial activity areas.

The PRLP Chief of Party gave notice of his retirement and left the project February 25th. The DCOP, Jason Schwarz, assumed the Acting Chief of Party position. At no direct cost to USAID, Tetra Tech sent an experience former USAID Chief of Party, Nabil Isifan, to provide support for 4 weeks during the transition, from March 9th to April 2nd. A replacement Chief of Party was approved by USAID in mid-March and is scheduled to arrive in mid-April.

Despite challenges identifying well-qualified candidates for certain positions, very good progress was made in staffing up the full-time project team, with only a few staff openings remaining.

No other issues or problems have occurred to date.

VI. TRAINING PARTICIPATION

The following chart summarizes participation in workshops, meetings, and related project events since project inception.

No.	Event	Date	Counterpart	Number of Participants	Gender		Result Area	Evaluation Of 5
					M	F		
1	Focus Group Workshop, MLAW offices, Yangon	11/25/13	MLAW members - legal aid CSOs	15	8	7	Obj. 2	-
2	CSO Workshop, Yangon School of Political Science, Yangon	12/7/13	Human rights and access to justice CSOs	20	10	10	Obj. 2	-
3	CSO Workshop, PRLP Offices, Yangon	2/19/14	Human Rights & Access to Justice CSOs; Gender/ Women's Organization; CSOs/LNGOs Network Group; Land Core Group	12	9	3	Obj. 1, Comp. 4 and Obj. 2	-

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No.	Event	Date	Counterpart	Number of Participants	Gender		Result Area	Evaluation Of 5
					M	F		
4	Gender Justice Workshop PRLP Office, Yangon	3/10/14	Member CSOs from Women's Organization Network and Gender Based CSOs	17	3	14	Obj. 1, Compo. 2	-
5	Christian Marriage Law Workshop, Meeting Hall, Myanmar Council of Churches	3/24/14	Women' Dept, MCC	11		11	Obj-1	-
6	Focus group session in Loikaw with Kayah-based CSOs	3/28/14	Phoo, Kain Na Yar, Pact, Law Home	31	14	17	Obj. 2	
7	CSO Focus Group Session in Taungyi, Shan State	3/31/14	UNDP, INGOs, Lawyers Association, CSOs	12	4	8	Obj. 2	-
Totals:				118	48	70		

VII. PERFORMANCE MONITORING AND EVALUATION

PRLP is awaiting USAID's approval of the draft PMP submitted on February 17th. Upon approval, PRLP will conduct baseline data collection and thereafter commence reporting on the PMP indicators in quarterly reports.

Attachment 1

Letter Agreement with USCO

See Next Page



March 3, 2014

U Sein Than

USCO Director General

By email: dgscunion@mptmail.net.mm

By Fax: 067 430 346

Dear Director General U Sein Than,

On February 20, I was pleased to meet with members of your USCO team along with my colleagues, Deputy Chief of Party Jason Schwarz and Capacity Building Specialist Khin Win Maw. During the informational seminar of February 10 and 11, additional judicial system needs became clearer to me, supplementing those outlined in my letter to you dated January 30. These and other possible areas of assistance were discussed with members of your staff last Thursday at the Supreme Court including Deputy Director General Ms. Aye Aye Kyi Thet, Deputy Director of Research Ms. Tin Nwe Soe, and Staff Officer, Research Department, Ms. Soe Thuzar Oo.

The Promoting Rule of Law Project is a USAID project funded by the United States of America through Tetra Tech DPK, the implementing company. The Project proposes the following assistance in accordance with the Bilateral Agreement signed between the Government of the United States of America and the Republic of the Union of Myanmar on the 27th day of June, 2013.

In prioritizing the needs and matching them with the immediate resources available through the Promoting Rule of Law Project (PRLP), along with input from your staff we developed some priority targets for USAID assistance described briefly below. We are prepared to begin any or all of these initiatives if you indicate your approval for PRLP to proceed.

- 1. Court Budgeting.** The Project is prepared to retain an international expert on court budgets and budget management who will review all applicable laws, rules, and regulations relating to the judicial budget. Working under the direction of the Supreme Court's budget officer Ms. Aye Aye Kyi Thet, the expert will conduct an in-depth analysis of the judicial budget processes now used to develop, analyze, promote, and manage the judicial budget of the Union of Myanmar. A comprehensive report will be completed which will identify the strengths and weaknesses of the current laws and practices and recommend ways to streamline, modernize, and strengthen the processes of the budget cycle.

Following this analysis, we would be happy to discuss the recommendations with you further with the goal of supporting the judiciary in whatever recommendations you agree should be implemented. Resources permitting we will also be prepared to conduct trainings for court and Supreme Court staff in a "Train the Trainers" model to allow the eventual financial and budget preparation and management training for all court financial managers and accountants.

- 2. In-depth Analysis of Court Operations and Efficiency.** With approval of the USCO, the Project is prepared to immediately retain an international expert on court and judicial operations. We propose that the expert, working with Supreme Court Office oversight, will review the current laws, rules, regulations, practices, and procedures currently used by the courts on the State/Region and District level. In this analysis the entire case processing and management process will be reviewed from the initial filing, through the appeals process, to the final archiving of a case. The objective will be to identify strengths and weaknesses and to recommend ways to streamline and modernize, where

needed, including identifying gaps and inefficiencies. (This report will be kept confidential for Supreme Court use only; it is not meant to be a “report card”.)

Based on the report and recommendations the Project will be available to discuss implementation of those recommendations deemed appropriate by the USCO and consistent with the mandate and resources of the PRLP Project.

3. **Review of Laws.** The Supreme Court of the Union has taken responsibility to review 52 existing laws which have been enacted since the colonial period. We understand that as a result of this review by the USCO, eight of those laws have been amended, repealed and/or newly drafted. The PRLP has available a number of legal experts, scholars, and judges who, working with your staff, have the ability to review laws, codes, rules, and regulations within their specialties. To assist the Judiciary’s law review efforts, the PRLP team, if requested, can assist the USCO research and review staff in the review process including conducting, where appropriate, a comprehensive review of relevant laws from neighboring countries and globally, and provide comparative analyses reports. In the process, we can share with USCO staff our experiences with law review and law drafting techniques.
4. **Management and Archival of Files and Documents.** The PRLP will be pleased to conduct an appraisal of the management of files and documents within selected offices of the Supreme Court and propose solutions to some of the storage and archival issues confronting an ever increasing workload by the departments within the Supreme Court Office. Resources permitting, the project may be able to provide some courts modern shelving and archiving equipment to better manage files and documents both active and those ready for archiving, indexing, and retrieval.
5. **Court-Journalist Relations.** Experience has shown that, over time, journalists’ reporting can be improved by the judiciary engaging the major media outlets and beginning the process of education on judicial and litigation issues. An educated media can be a strong advocate for the courts and some of the courts’ needs such as an adequate budget. Engaging them is delicate business but one which will have its rewards. The PRLP is prepared to begin the process of educating journalists and fostering a better understanding of the roles and responsibilities of journalists and judicial personnel. The Project is prepared to sponsor Judicial/media seminars as well as educational and training events for major media and journalists. If sponsored by the USCO, a strong message will be given that the judiciary is transparent and open but insists on accurate and honest reporting of administrative and court events. The Project is also prepared to work with the Supreme Court Office in the preparation and distribution of a handbook for journalists outlining the rules and ethical constraints of the judges and providing a glossary clarifying the unique terminology employed by the judicial branch.

We look forward to begin working with the USCO in the weeks ahead.

Respectfully,



Joseph Traficanti
Chief of Party
Promoting Rule of Law Project (PRLP)



102/7 Moe Kaung Road
Yankin Township Yangon,
Myanmar

Contact:

Jason Schwarz, Deputy Chief of Party

Phone: 09-250380769

jschwarz@tetrachdpc.com

The following numbered items mentioned above are approved (indicated by a check mark) for US Government assistance through the USAID Promoting Rule of Law Project (PRLP):

1. _____ **Court Budgeting**
2. _____ **In-depth Analysis of Court Operations and Efficiency**
3. _____ **Review of Laws**
4. _____ **Management and Archival of Files and Documents**
5. _____ **Court-Journalist Relations**


Signed this ____ day of _____, 2014

U Sein Than, Director General of the Supreme Court of the Union

The following numbered items mentioned above are approved (indicated by a check mark) for US Government assistance through the USAID Promoting Rule of Law Project (PRLP):

1. ☒ **Court Budgeting**
2. ☒ **In-depth Analysis of Court Operations and Efficiency**
3. ☒ **Review of Laws**
4. ☒ **Management and Archival of Files and Documents**
5. ☒ **Court-Journalist Relations**

Signed this 5th day of March, 2014


5/3/2014

U Sein Than, Director General of the Supreme Court of the Union

Attachment 2

Minutes of March 18th Work Planning Meeting with UAGO

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MEETING MINUTES

Work Planning Meeting UAGO and Tetra Tech DPK (USAID PRLP) 20 March 2014, 13:00 to 17:00 Amara Hotel, Naypyitaw

Attendees

UAGO:

Dr. Thida Oo, Director, International Law and ASEAN Legal Affair Division, Legal Advice Department

Daw Thin Thin Aye, Director, Training Department

U Kyaw Kyaw Naing, Deputy Director

U Min Swe, Deputy Director, Constitution and Legislative Drafting Department

Daw Yu Yu Khin, Deputy Director, Prosecution Department

Daw Moe Hnin Lwin, Deputy Director, Translation Department

U Ngwe Zaw Aung, Staff Officer, Legal Advice Department

U Kyaw Thein Lwin, Staff Officer, IT Department

Tetra Tech DPK:

Jason Schwarz, Deputy Chief of Party

Nabil Isifan, Justice Sector Consultant

Yein Myaw, Justice System Specialist

Ban Aung, Program Specialist

Summary of Discussion: Tetra Tech DPK presented the objectives of the 5 year PRLP project. Two exercises highlighted the importance to work planning of utilizing internal and external resources and emphasized that UAGO staff have the best access to the information on needs and priorities.

Participants discussed the current status of UAGO capacity enhancement initiatives, including the status of needs assessment and activity planning. UAGO officers explained that a training needs assessment and training plan were drafted with UNDP support and are pending approval by UAGO leadership. UAGO officers briefly reviewed the assistance being offered by other organizations (UNDP, JICA, ICJ, etc.)

The participants discussed the challenges with identifying capacity enhancement activities and defining the roles of different donors, to avoid overlap. They discussed that these challenges can be overcome if UAGO exercises greater control over the planning and donor coordination process. The need for external organizations to coordinate among themselves was also emphasized.

Finally, the participants discussed some specific capacity enhancement needs that are not yet being addressed by other donor organizations and that Tetra Tech DPK (or other external organizations) can immediately help address, subject to approval of UAGO leadership and USAID.

Conclusions:

The participants reached the following tentative conclusions to be discussed and agreed with UAGO leadership:

UAGO to Develop a More Detailed Internal Plan. Participants generally agreed that UAGO would benefit from developing detailed 1 year capacity enhancement plans for each department, and combining those plans into a unified 1 year capacity enhancement plan for the UAGO. The plan should include detail on implementation steps, timelines, and current status. Tetra Tech DPK is available to assist each department to develop their plans if desired.

UAGO to Officially Request Tetra Tech DPK Support for Immediate Capacity Enhancement Support Needs. UAGO participants identified the following initial areas for immediate external support from Tetra Tech DPK or other donors. These areas for the most part are not yet being addressed by other donor organizations. It was agreed that UAGO participants will present the list of areas to UAGO leadership for consideration. UAGO will send a letter to Tetra Tech DPK requesting assistance in defined areas. Tetra Tech DPK will then discuss the request with USAID and promptly inform UAGO about which areas Tetra Tech DPK can support.

Activity Area	Specific Activities	Comments
1. Training	<ul style="list-style-type: none"> - IT training <ul style="list-style-type: none"> o International computer driving license (all staff) o A+ training (IT staff) o Advanced IT training (admin staff) - English language (all staff) - Planning and strategic planning - Management skills - Communication skills - Crime scene / investigation skills (prosecutors) 	<p>In coordination with ICT and Training Units.</p> <p>Training should be done jointly with UAGO staff wherever possible to create permanent training capacity.</p>
2. Legal translation	<ul style="list-style-type: none"> - Specialized legal English language training for the 7 legal translation staff 	Two types of training can be provided for staff at different levels
3. Legislation	<ul style="list-style-type: none"> - Engage a consultant to develop Legislative Drafting Manual building on existing guidelines - Roll out the Manual (print and distribute, training on the manual) 	
4. Public Relations	<ul style="list-style-type: none"> - Public relations skills training - Other capacity enhancement activities (such as develop public relations materials, website updating) 	
5. Legal Advice	<ul style="list-style-type: none"> - Engage a consultant to develop guidelines for government commercial contracts with private company - Engage a consultant to develop guidelines for state to state government agreements 	

Activity Area	Specific Activities	Comments
6. International relations law	<ul style="list-style-type: none"> - International economic law training 	This training would expand upon existing international relations law training
7. Constitutional law	<ul style="list-style-type: none"> - Provide international legal references in the area of Constitutional law 	
8. E-library	<ul style="list-style-type: none"> - Convert 10,000 existing hard copy books into electronic format 	
9. Oversight of prosecutors' caseloads	<ul style="list-style-type: none"> - Enhance Prosecution Department's case management capacity (oversee and analyze prosecutor caseloads) - Automate case management statistics and case tracking 	Current oversight system is based on hard copy statistical reports
10. Human resources	<ul style="list-style-type: none"> - Develop a human resource management strategy to address high staff turnover 	100 staff per year rotate to other regions, requiring training of new staff
11. Legal information database	<ul style="list-style-type: none"> - Develop a searchable database of laws and other legal information 	Korean international cooperation agency has offered support but no decision yet to involve them on this project
12. Document management system (DMS)	<ul style="list-style-type: none"> - Define document flow processes/procedures - Contract an expert for document management software development and installation - Training on the new system - Develop DMS maintenance plan and capacity 	In coordination with ICT Department

Note: The following other potential areas of cooperation were discussed in a meeting with the Director General on 12 March 2014:

Activity Area	Specific Activities	Comments
1. Promote concept of impartiality	Potential activities <ul style="list-style-type: none"> - Facilitate working group to develop clear standards and guidelines on impartiality, and reinforcement mechanisms - Carry out a communications and training strategy - Develop resources for prosecutors such as case studies, mentors, and option to seek advisory opinions in specific situations - Establish monitoring and evaluation systems - Other related measures to promote impartiality in a comprehensive manner 	
2. Legal aid law	Potential activities	

Activity Area	Specific Activities	Comments
	<ul style="list-style-type: none"> - Facilitate a working group to develop a legal aid law that addresses the need to effectively regulate legal aid providers and minimize costs - Support law implementation (develop regulatory unit, create application forms, etc.) 	
3. Develop permanent UAGO trainers	<ul style="list-style-type: none"> - Develop a strategy for creating a cadre of highly qualified permanent trainers in the UAGO training center - Support strategy implementation (recruit trainers, training of trainers on teaching methods, develop curriculum and training materials) 	

Attachment 3

**National Legal Aid Policy Slideshow Presented at
February 3 MLAW Conference**

See Next Page



A National Legal Aid Policy – Features and Considerations

Jason Schwarz | Promoting Rule of Law Project
Tetra Tech DPK

PRLP Promoting Rule of Law Project
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Outline

- Purpose of a Legal Aid Policy
- Considerations in Developing a Policy and a Sustainable Legal Aid System
- Elements of a Written Policy
- Avoiding Common Pitfalls
- Preparatory Steps



Purpose of a National Legal Aid Strategy or Policy

- **Document consensus-based plans** to tackle the challenge of meeting the legal needs of all citizens.
- **Communications tool**, bringing all legal system stakeholders onto the same page regarding why an improved legal aid system is needed and what is expected of them in relation to legal aid system development.
- **Clarify the level of priority** that legal aid has in the government's agenda and build citizen awareness of their rights and means to access legal aid.



Considerations and Approaches in Developing Sufficient, Sustainable Legal Aid

- Analyze the legal market to understand workable solutions and develop a holistic approach
- Account for different types of legal service providers (lawyers, paralegals, community volunteers) and citizen needs (litigation vs. help completing a form)
- Ensure a mechanism for coordination and networking of legal aid is in place, at the national and/or regional levels



Considerations and Approaches in Developing Sufficient, Sustainable Legal Aid

- Integrate strategies to reduce socio-cultural barriers to accessing legal aid
- Address perceptions of legal aid by government and judicial officials and citizens (e.g., is it viewed as a human right)
- Create systems for matching services to the most pressing legal aid needs in society



Considerations and Approaches in Developing Sufficient, Sustainable Legal Aid

- Differentiate legal aid based on regional conditions including population size and physical presence of attorneys or law schools
- Secure private sector funding e.g., through corporate social responsibility outreach



Elements of a Well-Developed National Legal Aid System



Elements of a Written Policy

- Background / Purpose (sales pitch)
- Structure of the Legal Aid System
- Regulatory Body Structure/Functions
- Types of Cases to be Funded
- Financial Eligibility
- Standards for Accessibility (geographic coverage)
- Funding and Fee Arrangements
- What Forms of Legal Services to Fund
- Projected Costs



Elements: Background / Purposes

- Purpose – promote the urgent need for legal aid
- *See Australia's National Policy*
- Cite international principles: e.g., Draft United Nations Principles on Access to Legal Aid in Criminal Justice Systems
 - **Principle 1. Right to legal aid.**
 - **Principle 2. Responsibilities of the State.** *States should consider the provision of legal aid as their duty and responsibility. To that end, they should enact specific legislation and ensure that a comprehensive legal aid system is in place that is accessible, effective, sustainable and credible. States should allocate the necessary human and financial resources to the legal aid system.*

Elements: Background / Purposes (cont.)

- Include, for instance:
 - ❑ Context/history of legal aid in Myanmar
 - ❑ Market analysis: current/forecasted legal aid needs
 - ***Requires in-depth data analysis – see Handout***
 - ❑ Specific areas for improvement in current system
 - ❑ Discussion of international models/practices
 - ❑ Urgency of need
 - ❑ Priorities and objectives
 - ❑ Cost-benefit analyses
 - ❑ Benefits of strengthening legal aid

Elements: Structure of the Legal Aid System

- National vs. regional administrative structure (national = reduced administrative costs but less flexibility)
- Flexibility of models by region is the key
 - ❑ Large urban areas: a state legal aid office may be most cost-effective
 - ❑ Smaller urban areas: contract out public defense services to a local law firm using either a single fee for all cases or fee per case. Can task a local government official to supervise attorneys' work.
 - ❑ Rural areas: roving lawyers, paralegals, volunteer community legal advisors



Elements: Regulatory Body Structure/Functions

- Regulatory body ensures effectiveness and sustainability of legal aid policy implementation
- Models:
 - ❑ Britain's Coordination Council for Legal Aid
 - ❑ U.S. Legal Services Corporation
 - ❑ Australia, Canada, Netherlands, Israel, and at least on paper in countries like Bangladesh and Ivory Coast.



Elements: Regulatory Body Structure/Functions (cont.)

COORDINATING BODY ROLE:

- Oversee system development
- Regulate legal aid fund disbursements (including reimbursement of private attorneys)
- Quality management – issuing standards, performing audits and site inspections, user surveys, setting and enforcing financial and programmatic reporting requirements
 - ❑ US Legal Services Corporation has an Office of Program Performance with teams of lawyers that evaluate / assess centers they fund
 - ❑ See American Bar Association's *Standards for the Provision of Civil Legal Aid*



Elements: Regulatory Body Structure/Functions (cont.)

COORDINATING BODY ROLE:

- Fine tuning the system
 - ❑ Evaluating strengths and problems
 - ❑ US system restructuring – LSC carried out a major streamlining / consolidation to have one provider for a certain region/population to make the system more manageable and sustainable



Elements: Regulatory Body Structure/Functions (cont.)

COORDINATING BODY ROLE:

- Communications / outreach activities
- Complaints system / discipline regime (*probably requires a separate regulation*)
- *State of Legal Aid Annual Report* – accountability, transparency, data-driven planning and performance monitoring



Elements: Regulatory Body Structure/Functions (cont.)

COORDINATING BODY ROLE:

- Other possible roles:
 - ☐ Ethics training and resource materials for legal aid lawyers
 - ☐ Creation of user-friendly standard forms
 - ☐ Certification and accreditation of different types of legal aid providers
 - ☐ Training programs and conferences for legal aid providers
 - ☐ Creating a learning community and resource materials to improve uniformity and quality of practice



Elements: Regulatory Body Structure/Functions (cont.)

COORDINATING BODY ROLE:

- Need to determine National/State/Regional/Local Structure
- Query: As they develop, give Bar Associations a role in overseeing professionalism of legal aid providers?
- **Absolutely critical that the Coordination body is properly structured, resourced, with strong leadership**
 - *Advocate for this key result!!!*



Elements: Regulatory Body Structure/Functions (cont.)

Relevant Tetra Tech DPK tools the Coordination Body can adapt and use:

- TRAINING MODULE: *DATA-DRIVEN LEGAL AID SYSTEM MANAGEMENT*
- LEGAL AID SERVICES SUPPLY AND DEMAND MAPPING METHODOLOGY
- BARRIERS TO LEGAL AID ACCESS ASSESSMENT FRAMEWORK
- LEGAL AID SERVICES QUALITY MEASUREMENT SYSTEM
- LEGAL AID PUBLIC AWARENESS AND OPINION MEASUREMENT SYSTEM
- LEGAL AID PERFORMANCE MONITORING DATABASE SYSTEM DESIGN

Elements: Types of Cases to be Funded

- Criminal vs. civil cases
 - Criminal – seriousness of offense
 - Civil – cases invoking social exclusion/access to justice



Elements: Types of Cases to be Funded (cont.)

San Francisco Bay Area Legal Assistance - Program Areas:

- *Homelessness Prevention, including landlord-tenant matters, unlawful evictions*
- *Fair Housing Law Enforcement*
- *Domestic Violence Prevention and Immigration (VAWA) related matters*
- *Youth Justice Project*
- *Economic Justice Project – Public Safety-Net Programs*
- *Consumer Law – Debtor's Rights, Fair Credit Reporting*
- *Health Care Access*
- *Legal Barriers to Employment Project*
- *Medical-Legal Collaborative*



Elements: Types of Cases to be Funded (cont.)

Australia: Cases that Risk Social Exclusion

- Matters relating to families or children
- Social security, including war veterans' benefits
- Employment, including workplace relations legislation
- Housing
- Any case involving disadvantaged indigenous groups



Elements: Types of Cases to be Funded (cont.)

Australia: Cases that Risk Social Exclusion

The following vulnerable Australians in all matters:

- children (aged 18 and under)
- older people (aged 65 and over)
- disabled
- people with language or literacy problems
- people who have difficulty obtaining legal services because they live in a remote location
- women



Elements: Types of Cases to be Funded (cont.)

Australia: Cases that Risk Social Exclusion

Matters arising under:

- Discrimination and equal opportunity legislation
- Migration legislation
- International human rights treaties



Elements: Types of Cases to be Funded (cont.)

Bangladesh

- freedom fighters disabled, partially disabled, unemployed or unable to
- make a yearly income above 75000 Taka;
- an individual receiving old age allowance;
- a distressed mother holding a VGD card;
- women and children victim of trafficking;
- women and children victim of acid throwing by the miscreants;
- the allottee of a house or land in a model village;
- an insolvent widow, a distress woman and a woman abandoned by husband;
- unable to earn and destitute disabled person;
- a person unable to protect his/her right in court or to defend him/herself for financial insolvency;



Elements: Financial Eligibility



- Eligibility criteria e.g., income level
- Proof requirements (could be in a regulation)

Bangladesh

Eligible persons are

- (i) identified from time to time by the Organization as financially insolvent, destitute and suffered losses due to various socio-economic and natural calamities, and
- (ii) unable to conduct a case to protect his/her right.

For the purpose of these policies, "insolvent or financially insolvent person" means the person whose annual average income is not above Taka 50,000 (fifty thousand).

Elements: Standards of Accessibility/ Geographic Coverage

- Waiting times
- Time spent on each case
- Distance from rural populations



Elements: Standards of Accessibility/ Geographic Coverage

Consider:

- Outreach programs
- Roving attorneys/paralegals
- Community paralegal programs
- Reimbursement of transportation costs



Elements: Funding and Fee Arrangements

- Funding from federal, state/region, district, township, village? levels
- Role of non-government funding
 - ❑ *Diversified funding maintains independence*



Elements: Funding and Fee Arrangements

- Creative funding approaches
 - ❑ Court fees or fines
 - ❑ Criminal cases – confiscated / defaulted property
 - ❑ Attorneys' fees rules can allow legal aid orgs to collect fees if they win
 - ❑ Generate income through training government officials
 - ❑ Charge some fees to people that can afford it



Elements: Funding and Fee Arrangements

- Creative funding approaches
 - ❑ Bar association allocates some member fees to legal aid groups
 - ❑ Public Private Partnerships
 - ❑ Pro Bono requirements
 - ❖ *New Iraq law requires two pro bono cases per year*



Elements: What Forms of Legal Aid to Fund

- Legal representation vs. advice vs. community legal awareness
- Types of legal aid models :
 - ❑ Office of the Public Defender (often a team of lawyers, assistant attorneys, social workers, secretaries, paralegals, investigators, etc.)
 - ❑ Assigned counsel
 - ❑ Judicare (a lawyer chosen by the client is reimbursed in accordance with an hourly or fixed fee per case tariff up to a certain amount of time, similar to health insurance)
 - ❑ Contract system – law firm or lawyer has a contract (medium or small cities)
 - ❑ Paralegals / community legal advisors (can't provide full representation)
 - ❑ Pro Bono (generally can only meet a small percentage of the demand)
 - ❑ Law school clinics (generally can only meet a small percentage of the demand)

Elements: What Forms of Legal Aid to Fund (cont.)

Australia's Eight Legal Aid Commissions provide:

- **Legal representation** in court proceedings for people who cannot afford a lawyer
- **Duty lawyer services**, legal representation on the day for people who appear at court without a lawyer
- **Legal advice** and information about legal rights and remedies
- **Community legal education, publications and other programs** about the law and legal rights.



Elements: What Forms of Legal Aid to Fund (cont.)

Other Legal Services/Solutions

- Alternative dispute resolution / mediation services
- Support for self-represented parties
 - Judge conduct: neutrality vs. fact finding
 - Solutions: Self-help centers, brochures, simple forms, websites, computer kiosks in courts, court paralegals or legal assistants, NGO services, etc.



Elements: Projected Costs

Projected Costs

- By legal area and/or type of legal aid
- *See Australia's National Policy (Handout)*



Design Policy to Avoid Common Pitfalls

Design the Policy to Address Common Pitfalls

- **Strong quality control.** Bad apples can taint the whole system. Unlike private attorneys, the legal aid market is less likely to serve as a built in quality control mechanism.
- **Don't mismatch service types and demand.** If demand is for basic legal advice, demand may be met through paralegals or community legal advisor volunteers.
- **Make the system user friendly to private lawyers.** Too often the process is too cumbersome and deters attorneys from taking on the cases.

Design Policy to Avoid Common Pitfalls

Design the Policy to Address Common Pitfalls

- **Strong leadership body.**
 - Push for appointment of a strong leader.
 - Allocate adequate resources.
 - Make the regulatory body itself accountable – annual report presented to President/Parliament, develop champions, etc.
- **Get the incentives right.** Fees, contracting mechanisms, etc.

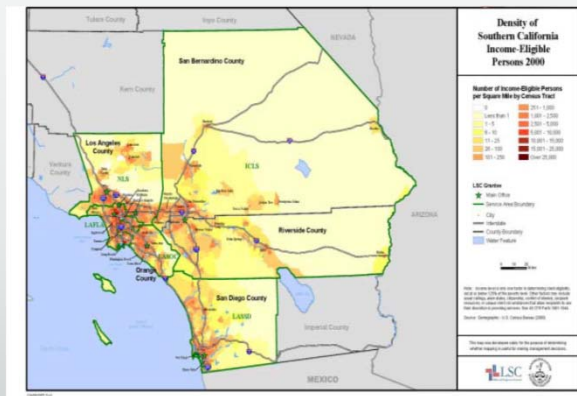
Preparing to Develop a Legal Aid Policy

- In-depth study and analysis can improve chances of adoption of a good legal aid policy:
 - ❑ Study other examples e.g., Australia Policy, Bangladesh Legal Aid Law and regulations.
 - ❑ Study and analyze the economic / market conditions for legal services – (*involve some economists*)



Preparing to Develop a Legal Aid Policy (Cont.)

- ❑ Gather as much data on need and supply as possible – (*involve some researchers/statisticians*)
- ❑ Do some GIS data visualization (*involve some IT pros*)



Preparing to Develop a Legal Aid Policy (Cont.)

- ❑ Review legal barriers to low cost legal advice, paralegal services, limited legal representation
 - *Review of the Constitution, criminal codes, civil and criminal procedure codes, any laws or regulations governing the legal profession, court rules, and specific statutes that pertain to the rights of minority and vulnerable populations which may define their rights in seeking legal remedies.*
- ❑ Cost benefit / financial impact analysis of different models – **(involve policy analysts)**
- ❑ Consider a state/region pilot project as proof of concept



Preparing to Develop a Legal Aid Policy (Cont.)

- ❑ Estimate what is realistic government funding for legal aid
 - Australia annual price tag: \$300 to 400 million (Aus. Dollars)*
- ❑ Evaluate other potential funding sources
 - World Bank/donors
 - Businesses e.g., natural resource companies
 - Court fees and fines / bar membership fees



Preparing to Develop a Legal Aid Policy (Cont.)

- ❑ Put it all together in a professional package and sell it to policymakers (*involve graphic designers / PR / advocacy experts*)
- ❑ Form advocacy coalitions
- ❑ Find influential champions
- ❑ Grow the circle of endorsers

**Nurses support
Legal Aid
Lawyers**

ONIA Ontario Nurses' Association



Preparing to Develop a Legal Aid Policy (Cont.)

- See *Legal Aid Policy Template Handout*
- Useful Tetra Tech DPK tools:
 - ❑ Sustainable Legal Aid Development: A Participatory Guide
 - ❑ Supply and Demand Mapping Methodology
 - ❑ Legal Aid Framework Assessment Methodology (See Handout)
 - ❑ Market and Cost Benefit Analysis Method (See Handout)



Preparing to Develop a Legal Aid Policy (Cont.)

See Handouts

- *Legal Aid Framework Assessment Questionnaire*
- *Market / Cost Benefit Analysis in Legal Aid Planning*

GOOD LUCK!

